



Virginia
Regulatory
Town Hall

Final Regulation Agency Background Document

Agency Name:	25
VAC Chapter Number:	21
Regulation Title:	Auctioneers Board Rules and Regulations
Action Title:	Amending
Date:	November 16, 2001

Please refer to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99) , and the *Virginia Register Form, Style and Procedure Manual* for more information and other materials required to be submitted in the final regulatory action package .

Summary

Please provide a brief summary of the new regulation, amendments to an existing regulation, or the regulation being repealed. There is no need to state each provision or amendment; instead give a summary of the regulatory action. If applicable, generally describe the existing regulation. Do not restate the regulation or the purpose and intent of the regulation in the summary. Rather, alert the reader to all substantive matters or changes contained in the proposed new regulation, amendments to an existing regulation, or the regulation being repealed. Please briefly and generally summarize any substantive changes made since the proposed action was published.

The Auctioneers Board has identified several changes that need to be made to its regulations to ensure that they accurately reflect the intent of the Board and to ensure that any unnecessary requirements are removed.

Statement of Final Agency Action

Please provide a statement of the final action taken by the agency: including the date the action was taken, the name of the agency taking the action, and the title of the regulation.

The Auctioneers Board adopted final regulations entitled “Auctioneers Board Regulations” at their meeting on Thursday, October 18, 2001.

Basis

Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority, shall be provided. If the final text differs from that of the proposed, please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulation and that it comports with applicable state and/or federal law.

§ 54.1-602 of the Code of Virginia requires the Auctioneers Board to develop and administer a regulatory system to regulate individuals and businesses in Virginia that practice auctioneering. While the Board is mandated to establish regulations, the content of the regulations is up to the discretion of the Board.

As the final text differs from that of the proposed, the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the final regulations and that it comports with applicable state and/or federal law.

Purpose

Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the final regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.

The regulations are essential to comply with state mandates. In order to protect the public, the Board is clarifying its regulations that disciplinary action in another jurisdiction relating to auctioneering may prevent licensure in Virginia and that Board approved auction schools will have to include the Board's regulations in their curriculum, periodically certify that they continue to comply with the Board's requirements and clarify that the Board may withdraw approval for a school failing to comply with the Board's requirements. The remainder of the changes are to ensure that the Board's intent is clearly reflected in the regulations and to remove unnecessary or outdated items from the regulations.

Substance

Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement of the regulatory action's detail.

A summary of each of the changes follows:

18 VAC 25-21-10 – delete the following definitions as they are either not utilized in the body of the regulations or are already contained in the Code of Virginia:

- Auction – already contained in § 54.1-600;
- Auctioneer - already contained in § 54.1-600;
- Auction Firm - already contained in § 54.1-600;
- Board - already contained in § 54.1-600;
- Director - already contained in § 54.1-600;
- Person - already contained in § 54.1-600;
- Absolute Auction – not utilized in the regulations;
- Estate Auctions – not utilized in the regulations;
- Regular Business – not utilized in the regulations; and
- Reserve Auction – not utilized in the regulations.

18 VAC 25-21-20.2 – clarify that disciplinary action in another jurisdiction relating to auctioneering may prevent licensure in Virginia.

18 VAC 25-21-20.3 - remove the option of substituting 25 auctions in lieu of education as this option was deleted when § 54.1-603.B.3 of the Code of Virginia was last amended.

18 VAC 25-21-30 – clarify language.

18 VAC 25-21-40 – clarify language.

18 VAC 25-21-50 – clarify language.

18 VAC 25-21-60.2 – modify to reflect changes in the Code of Virginia.

18 VAC 25-21-90.A – clarify language to reflect lower fee.

18 VAC 25-21-90.B – modify the reinstatement requirements so that:

- Anyone may reinstate within one year of expiration by completing the required application and submitting it with the required fee and bond;
- Anyone whose license has been expired for more than one year, but less than two years may reinstate by completing the required application, submitting it with the required fee and bond, and either sitting for and passing the examination or applying via reciprocity; and
- Anyone whose license has been expired for two years or more shall be required to apply as a new applicant and meet the entry requirements that are in place as of the date that they make application.

18 VAC 25-21-110.1.b – clarify language.

18 VAC 25-21-180.A – clarify language.

18 VAC 25-21-200 – modify to require that the schools seeking Board approval comply with the following:

- Include the Board’s regulations in their curriculums;
- Periodically certify that they continue to comply with the Board’s requirements; and
- Clarify that the Board may withdraw approval for a school failing to comply with the Board’s requirements.

The following changes have been made to text of the proposed regulations since its publication:

18 VAC 25-21-70.11 – delete the Bad Check Fee from the regulations as this an administrative fee and not a Board fee.

18 VAC 25-21-180.A – correct reference to § 9-6.14:1 to § 2.2-4000 due to recodification of this portion of the Code.

Issues

Please provide a statement identifying the issues associated with the final regulatory action. The term “issues” means: 1) the advantages and disadvantages to the public of implementing the new provisions; 2) the advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.

The primary advantage to the public is that the Board is clarifying its regulations that disciplinary action in another jurisdiction relating to auctioneering may prevent licensure in Virginia. Further, the proposed changes will help ensure that the Board’s regulants will have a clearer set of regulations that do not contain unnecessary items. In addition, the Board will be better able to protect the public by being able to ensure that Board approved schools continue to comply with the Board’s requirements, and if they do not, the Board’s approval may be withdrawn. The only disadvantage is that individuals whose license has been expired for more than two years would have to retake the examination unless they are licensed in another state with which Virginia has a reciprocity agreement. This is expected to be a rare occurrence.

Statement of Changes Made Since the Proposed Stage

Please highlight any changes, other than strictly editorial changes, made to the text of the proposed regulation since its publication.

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Public Comment

Please summarize all public comment received during the public comment period and provide the agency response. If no public comment was received, please include a statement indicating that fact.

No public comment was received.

Detail of Changes

Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or crosswalk - of changes implemented by the proposed regulatory action. Include citations to the specific sections of an existing regulation being amended and explain the consequences of the changes.

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Family Impact Statement

Please provide an analysis of the regulatory action that assesses the impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.

The contemplated changes are expected to have no impact on families.